EU/Cape Verde Agreement: readmission of persons residing without authorisation

2012/0268(NLE) - 07/10/2013 - Final act

PURPOSE: to conclude the Agreement between the European Union and Cape Verde on the readmission of persons residing without authorisation.

NON-LEGISLATIVE ACT : Council Decision 2013/522/EU on the conclusion of the Agreement between the European Union and the Republic of Cape Verde on the readmission of persons residing without authorization.

BACKGROUND: in accordance with Council Decision 2013/77/EU, the Agreement between the European Union and Cape Verde on the readmission of persons residing without authorisation was signed, on behalf of the Union, subject to its conclusion.

The Agreement should now be concluded on behalf of the EU.

CONTENT: this Decision approves, on behalf of the EU, the Agreement between the European Union and Cape Verde on the readmission of persons residing without authorisation.

It establishes the technical rules regarding the application of the Agreement. The Commission, assisted by experts from Member States, shall represent the Union in the Joint Readmission Committee established by the Agreement.

Main provisions of the Agreement:

- **reciprocity clause**: the readmission obligations set out in the Agreement are drawn up on a basis of full reciprocity, applying both to own nationals and to third-country nationals and stateless persons;
- **obligation to readmit family members**: the obligation to readmit own nationals also includes former own nationals who have renounced, forfeited or been deprived of their nationality without acquiring the nationality of another State. The readmission obligation also covers family members (i. e. spouses and minor unmarried children), regardless of their nationality, who do not have an independent right of residence in the requesting State;
- **prerequisites**: the obligation to readmit third-country nationals and stateless persons is linked to the following prerequisites: (a) the person concerned holds or held at the time of entering the territory of the requesting State a valid visa or residence permit issued by the requested State, or (b) the person concerned illegally entered the territory of the requesting State coming directly from the territory of the requested State. These obligations do not apply in respect of persons in airside transit or to whom the requesting State has issued a visa or residence permit before or after they entered its territory;
- **technical provisions regarding the readmission procedure**: the Agreement contains the necessary technical provisions regarding the readmission procedure (readmission application, means of evidence, time limits, transfer modalities and modes of transportation) and 'readmission in error'. Some procedural flexibility is provided by the fact that no readmission application will be needed in cases where the person to be readmitted is in possession of a valid travel document or identity card and, in case of third-country nationals, a valid visa or residence permit issued by the requested State;
- **accelerated procedure**: the Agreement sets out the ‘accelerated procedure’ which has been agreed for **persons apprehended in the ‘border region’**, i.e. within an area which extends up to 30 kilometres from the territories of seaports, including custom zones, and from international airports

of Member States or of Cape Verde. Under the accelerated procedure, readmission applications have to be submitted within two working days, and replies have to be given within two working days, with the time limit for replies being eight calendar days;

- **transit operations**: the Agreement contains a section on transit operations;
- **other technical provisions**: these are provisions on costs, data protection and the relationship to other international obligations and existing EU directives. The agreement is without prejudice to other arrangements relating to areas other than readmission, such as **voluntary return;**
- **Protocols**: in order to execute the Agreement in practice, Cape Verde and individual Member States may conclude bilateral implementing Protocols.

Territorial provisions: the specific situation of the United Kingdom, Ireland and Denmark is reflected in the Agreement. The situation of Denmark is also mentioned in a joint declaration attached to the Agreement. The close association of Norway, Iceland, Liechtenstein and Switzerland with the implementation, application and development of the Schengen acquis is likewise reflected in a joint declaration attached to the Agreement.

It should be noted that the Agreement is linked to the visas These Agreements will enter into force simultaneously.

ENTRY INTO FORCE: the Decision enters into force on 7 October 2013. The date of entry into force of the Agreement will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.